

MORGANTOWN BOARD OF ZONING APPEALS

MINUTES

June 15, 2005

6:30 P.M.

City Council Chambers

Members Present: Jim Rockis, Leyden, Bernie Bossio, and Mark Furfari.

Members Absent: Kevin Leyden and Nick Iannone.

Staff Present: Jim Wood, Planning Director.

MATTERS OF BUSINESS:

The minutes of April 20 and May 20, 2005, were tabled for lack of a quorum.

OLD BUSINESS:

1. **V05-06 / Williams / 100 Third Street:** Request by Mike Williams for variance approval from the *Table 2, Residential Development Standards* for property located at 100 Third Street. Tax Map #20 Parcel #53 and Tax Map #19 Parcel #120; an R-3, Multi-family Residential District.

J. Wood read the staff report stating that this was tabled pending the submittal of a more detailed site plan. When a professional engineer was refining the site plan, adjustments were made to the layout so that no variances are necessary on Parcel #120. The original staff report stated that Mr. Williams would like variance approval for two pieces of property located at 100 Third Street. At the April 2005 meeting, the Planning Commission approved a minor boundary adjustment for these two parcels to enable them to have enough land to support two proposed multifamily structures (a ten unit building on one parcel and an eleven unit building on the other.

The original staff report explained that Parcel #120 now contains 10,510.73 square feet. The applicant is proposing to build a 10-unit apartment building with five 1-bedroom and five 3-bedroom units. The minimum lot size for this proposal is 10,500 square feet. The variance being proposed for this parcel would be a side yard variance of 5' on the left side of the proposed building. Please note that the current structure on this parcel is a multi-family dwelling with a five-foot side yard setback, on the same side as being proposed.

J. Wood explained that Parcel #53 now contains 15,971.26 square feet. The applicant is proposing to build an 11-unit apartment, all 2-bedroom units. The minimum lot size is 10,450 square feet. The proposed variance encompasses a rear yard variance of 15', building within 10' of the property line, a side yard variance on the northern side of the property of 5', and a side yard variance from 5-10' on the opposite side of the building. Preliminary reviews by the Engineering Department suggest that it would be difficult, but not impossible, to build within the required setbacks. However, it was stated that it would be very costly and the applicant would risk damaging adjoining structures due to the topography of the parcel.

J. Wood clarified that the original 5' side yard variance requested on the northern side was tweaked to meet set back requirements and so the variance is no longer needed. The original rear yard set back variance request was 15'. §14.B.2 of the zoning Ordinance states that ½ of an alley that abuts a property can be counted as fulfilling that set back. After making that paper adjustment, only a 7½' variance is needed. At the bottom corner of the building closest to Alley B, it would be approximately 6' from the property line and halfway up the side of the building it would meet the 10' set back requirement. This variance would range 4' to 9' along the northern property line.

J. Wood advised that both parcels exceed the minimum lot requirement for what the applicant is proposing. A copy of the *Table 2, Residential Development Standards* is included in your packet so you may see the breakdown for M-U, Mixed Use District and multi-family structures. The site plan will undergo Technical Review on April 27, 2005, with the Planning Department, Engineering and the Morgantown Utility Board.

J. Wood submitted the staff recommendation as follows:

Finding #1: Staff believes the BZA should find in the positive due to the topography of parcel #53.

Finding #2: Staff believes the BZA should find in the positive because the applicant has stated and provided pictures of numerous structures with setback deficiencies.

Finding #3: Staff believes the BZA should find in the positive, but should be changed to add that a dilapidated building will be razed and a new structure put in place that will enhance the area and increase property values.

Finding #4: Staff believes the BZA should find in the positive due to the fact that the area is zoned for multi-family residential and will allow for usage of parcels that have topographic challenges.

J. Rockis requested that the Engineering Department letter of June 10, 2005, be read into the record.

Please be advised that I have completed a preliminary review of the proposal submitted by Mike Williams for property located at 100 Third Street. Parcel #53, the property fronting the claim, is extremely steep, evident by the topography map. It is my professional opinion that the proposed location far exceeds the proposal to locate the structure any closer to McLane Avenue. Please be advised that there is an adjacent structure close to the southeastern boundary where structural damage could occur due to slope stability and geo-technical considerations are compromised. Also, I have reviewed the applicant's proposal to locate 4 parking spaces on Third Street where vehicles would most likely be backing onto the aforementioned street. Please be advised that this is an engineering issue that will be further reviewed by the Engineering Director, Terry Hough, during the technical review process. Should you have any concerns that I may be able to help with, please do not hesitate to contact our office.

Mike Williams, applicant, was available for questions.

Chuck Branch, Alpha Associates, said that it was important to keep the building away from the steep slope to avoid impacting the steep slope any further. There is a house off the southeastern corner of the property. During the schematic layout, we made sure that this would function properly with the City's codes with the exception of these variances. They are primarily to keep the building out of the steep slope. The last variance is not 4' to 9' as stated, but zero to 4'.

B. Bossio asked if the number of parking spaces meet the requirements and questioned the slope for the eight spaces on the northeast side.

Mr. Branch answered that the parking requirement is met and the approximately 8% slope is within guidelines and standard practices.

M. Furfari counted 42 bedrooms with only 32 parking spaces.

Mr. Branch replied they are using the standard parking requirements as set forth in the zoning ordinance.

J. Wood clarified that 1½ parking spaces are required for two bedroom units and gave several examples.

J. Rockis asked for public comments. There being none, the public portion was closed.

J. Rockis observed they would be setting a precedent for backing out onto the street.

J. Wood asserted that each case is evaluated separately.

B. Bossio asked for clarification of the standards for evaluation.

J. Wood responded that it is at the Engineering Department's discretion. The City's default position is to discourage backing out and he is not aware of what the Engineering Department standards are.

B. Bossio maintained the need for consistency.

Mr. Williams replied that the letter says that how it is arrived at is under the auspices of the City Engineer. The impression is that it is still undefined how the four spaces will be parked in. He did talk to the City Engineer about reverse parking and noted that five other properties on Third Street back out and also stack their parking. He stated that it is not etched in stone that it will be reverse parking.

Motion by B. Bossio to accept Mr. Williams' answers to the Findings of Fact as written, second by M. Furfari. Motion carried unanimously.

Motion to approve the variances by M. Furfari, second by B. Bossio. Motion carried unanimously.

2. **CU00-01 / Landmark Ventures / 616 Richwood Avenue:** Request by Mark Furfari, of Landmark Ventures, for conditional use approval for restaurant-private club licensing at 616 Richwood Avenue. Tax Map #30, Parcel #32 a B-1, Neighborhood Business District.

J. Rockis said this case would be tabled until the next meeting since there are not enough members to vote on it (the case involves a BZA member as the applicant, therefore at least 3 other BZA members would need to be present to vote on it due to the applicant abstaining).

NEW BUSINESS: NONE.

OTHER BUSINESS:

Public Comments: NONE.

Staff Comments:

ADJOURNMENT